

Article - Environment

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§14–110.1.

(a) In this section, “water supply” means a source of water used for drinking or other domestic purpose or for agriculture, including livestock.

(b) For each permit the Department issues under this subtitle to drill a well for the exploration or production of gas in deep shale deposits, there is a presumptive impact area around the gas well in which it is presumed that contamination of a water supply was caused by the activities of gas exploration or production.

(c) The presumptive impact area shall be in effect:

(1) Within a radius of 2,500 feet from the vertical wellbore; and

(2) For 365 days after the last event of well drilling, completion, or hydraulic fracturing.

(d) Within a presumptive impact area established under subsections (b) and (c) of this section, the permittee shall replace, at no expense to an owner of real property in the presumptive impact area, a water supply that is contaminated as a result of the permittee’s drilling or operation of the gas well.

(e) A water supply within a presumptive impact area that no longer yields potable water as a result of the drilling or operation of a gas well shall be considered to be replaced adequately by a permittee if the permittee provides for the affected property owner a new or retrofitted well or other alternative water supply that is capable of yielding potable water equal to the volume used or needed by the property owner before the contamination of the water supply.

(f) The permittee and the property owner may agree on monetary compensation or other mitigation instead of restoration.

(g) The Department may not require a permittee to replace a water supply or compensate a property owner, as provided in this section, if the permittee demonstrates to the Department by a preponderance of the evidence that:

(1) The contamination is not the result of activities relating to the gas well; or

(2) The contamination existed before the commencement of activities allowed by the permit and was not worsened by those activities.

(h) The Department may adopt regulations to implement this section.

(i) The presumption of causation established under this section does not apply to contamination of a water supply if:

(1) The permit applicant requests the permission of the property owner to sample and test the water supply before commencement of activities and to provide the property owner with a complete copy of the test results; and

(2) The property owner refuses permission.

(j) This section may not be construed to affect any common law remedies available to a property owner.

(k) (1) The presumption of causation established under this section shall apply in:

(i) A proceeding for judicial review under § 14–117 of this subtitle;

(ii) An action for an injunction under § 14–118 of this subtitle;
or

(iii) A civil action for damages or equitable relief brought by a property owner against a permittee.

(2) The presumption may be rebutted by a preponderance of the evidence.

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